

C. INCAPACITY REDETERMINATION**WAC 388-448-0160 Review of your incapacity.**

- (1) In order to review your incapacity, we must have sufficient written medical information based on an examination within the last sixty days. We may also require information about your progress with required treatment or agency referrals according to WAC 388-448-0130.
- (2) We cannot extend GAU eligibility beyond the current eligibility end date if we do not receive current medical evidence that we decide is enough to show that you continue to be incapacitated.

WORKER RESPONSIBILITIES**Incapacity Review Process**

1. The Incapacity Social Worker:
 - a. Mails the client a request for a current medical report 45-60 days prior to the review date.
 - b. Sends DSHS 14-118(X), Incapacity Decision, to the FSS (Financial Services Specialist) by the 18th of the review month and terminates GAU for no current medical if the client does not respond.
2. The Financial Services Specialist:
 - a. Sends the client notice that GAU is terminated for lack of current medical evidence.
 - b. If the FSS receives a DSHS 14-118(X) with a decision **after** a no current medical termination is issued, the FSS:
 - (1) Extends GA-U benefits if approved and notifies the client that benefits are extended; or
 - (2) Issues a supplemental notice of termination with details from the DSHS 14-118(X) of why the benefits are terminated.

- c. When an incapacitated client becomes employed, the FSS determines if the client remains financially eligible.
 - (1) If the client is still financially eligible, the FSS contacts the social worker to determine if the client is gainfully employed.
 - (2) If the client is no longer financially eligible, the FSS terminates assistance and informs the SW of the termination.

WAC 388-448-0170 Termination requirement – How we determine you are no longer incapacitated.

- (1) Before we can decide you are no longer incapacitated, we must demonstrate that at least one of the following conditions exists:
 - (a) The incapacitating condition has clearly improved since incapacity was established. **"Clear improvement"** means that since incapacity was established:
 - (i) The physical or mental impairment that incapacity was based on has decreased in severity to the point where you are capable of gainful employment;
 - (ii) The effect of that impairment on work-related activities has been significantly decreased through treatment or rehabilitation, and you are now capable of gainful employment; or
 - (iii) We decide you are gainfully employed.
 - (b) There was a previous error in the eligibility decision. **"Previous error"** means incapacity was previously established based on:
 - (i) Faulty or insufficient information; or
 - (ii) We made a procedural error in one of our previous determinations, based on a rule in effect at the time.
- (2) If we decide you are clearly improved but are receiving services through the division

- of vocational rehabilitation (DVR), we have the option of approving continued GAU through an exception to rule (ETR).
- (3) We do not apply the clear improvement or previous error criteria when:
- (a) You have a break in assistance of over thirty days and do not meet the criteria for retroactive reinstatement as required under WAC 388-448-0190; or
 - (b) You do not meet the categorical eligibility requirements for the general assistance unemployable program.

Effective August 1, 2001

WAC 388-448-0180 How and when we redetermine your eligibility if we decide you are eligible for GAX.

When we decide you are eligible for GAX, we may extend your incapacity period up to thirty-six months from the date of the last incapacity decision without requesting additional medical documentation.

- (1) If you remain on GAX at the end of the thirty-six-month period, we determine your eligibility using current medical evidence.
- (2) If your application for SSI is denied, and the denial is upheld by an SSI / SSA administrative hearing before the end of the thirty-six-month incapacity period, we change your program eligibility from GAX to GAU and adjust the incapacity review date to be sixty days after the administrative hearing date.

WAC 388-448-0190 Reinstating your eligibility after termination due to lack of medical evidence.

If your assistance was terminated due to lack or insufficiency of medical evidence, we reinstate your eligibility the day following the termination date if the following conditions are met:

- (1) The termination was not due to your failure to cooperate in gathering the evidence;
- (2) You provided the medical evidence within thirty days after the termination, establishing that you have been incapacitated since the date of termination; and

(3) The medical evidence substantiates incapacity.
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